

**MEMORANDUM OPINION DENYING  
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant Southern Health Partners, Inc. (“Southern”) has moved for summary judgment against Plaintiff Carolyn Dean (“Dean”) in this action under the Family and Medical Leave Act, 29 USC §2601 *et seq.*, (“FMLA”). Because of genuinely disputed factual issues, the motion is due to be denied.

Dean was fired after having requested additional medical leave. Earlier, she had properly requested eight weeks medical leave to undergo surgery. At the expiration of the allotted leave, she dutifully returned to her job although she was still recuperating from the surgery.

At the suggestion of her doctor, Dean requested additional time to recover

from the surgery. Almost immediately thereafter, Southern terminated her employment.

In its motion for summary judgment, Southern contends, among other things, that it would have fired Dean even if she had not been on leave. However, viewing the facts and the reasonable inferences flowing therefrom in a light most favorable to the Plaintiff, including the fact that the employee counseling report filled out by Southern specified Dean's medical leave as the cause of her termination, the contention is unsupported by the evidence.

By separate order, the Motion for Summary Judgment will be denied.

Done this the 9<sup>th</sup> day of January, 2006.

A handwritten signature in black ink, appearing to read "U.W. Clemon", written over a horizontal line.

U.W. Clemon  
Chief United States District Judge